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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,771	08/13/2001	Charles R. Buckman	066101.0291	7610

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EXAMINER
AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/928,771	BUCKMAN ET AL.
	Examiner	Art Unit
	Joseph E. Avellino	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _20 April 2006_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _34-59_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _34-59_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _12/12/05_.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

1.   Claims 34-59 are pending in this examination; claims 34 and 47 independent.

The Office acknowledges the cancellation of claims 1-4 and 8-33, with claims 5-7

previously being cancelled.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April

20, 2006 has been entered.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. Claim 40 recites the limitation "said packet processing

variables" which lacks antecedent basis. For examination purposes, the claim will read

"packet processing behaviors". Correction is required.

Claim Rejections - 35 USC § 102

5.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

Claims 34-41, and 43-54, 56-59 are rejected under 35 U.S.C. 102(b) as being

unpatentable over Shwed et al. (USPN 5,835,726) (hereinafter Shwed).

6.   Referring to claim 34, Shwed discloses a programmable packet based network

having plural nodes for providing services to network subscribers, the network

comprising:

a service creation tool (i.e. a GUI) having an operator interface for programming

a service definition package (i.e. rule base), the service definition package having one

or more packet processing behaviors (i.e. rules) defined in a network programming

language (i.e. the graphical language used by the user) (Figure 3, all; col. 6, line 39 to

col. 8, line 10);

a service control center (i.e. system administrator 102) interfaced with the packet

based network (i.e. connected) and operable to accept the service definition package

for deployment to the predetermined network nodes (i.e. workstations or gateways at

which protection is desired) (col. 6, lines 10-50); and

7.   at least one network node (i.e. gateways or workstations) interfaced with the

network the node having a network processor (an inherent feature if connected to the

network), the node operable to perform the one or more packet processing behaviors

translated from the network programming language (i.e. perform the function that is

desired) (col. 6, lines 40-45).

8.   Referring to claim 35, Shwed discloses the packet processing behaviors

comprise system parameters (i.e. the Office construes the term "system parameters" as

any values which may be utilized in order to determine rules, as such any of the values

shown in Figure 3/4 can be considered a "system parameter") (Figure 3/4).

9.   Referring to claim 36, Shwed discloses said system parameters comprise global

variables (the Office construes the term "global variable" as any variable which can be

known to at least one other node in the network, as such the rules themselves which

are installed on specific classes of computers can be considered a "global variable")

(Figure 3/4).

10.   Referring to claim 37, Shwed discloses the system parameters comprise node-

specific variables (i.e. control data flow to a specific computer on the network, the

variable is specific to the computer that the packet filter is filtering packets for) (col. 6,

line 55 to col. 7, line 17).

11.   Referring to claim 38, Shwed discloses said packet processing behaviors

comprise service parameters (i.e. the Office construes the term "service parameters" as

parameters corresponding to a particular service on the network, as such the terms

email, Telnet, and any other protocol suite used on a network can be considered a
"service" to the network) (figure 3/4).

12.   Referring to claim 39, Shwed discloses said service parameters comprise a
plurality of instance variables corresponding to service instances (i.e. telnet, email, ftp,
etc. are all services, and any packet would identify the particular service, which in itself
is a variable of the particular instance) (Figure 3/4).

13.   Referring to claim 40, Shwed disclseos said packet processing behaviors
comprise customer instances of management variables (the Offices construes
"customer instances of management variables" as copies of a particular management
variable which are disseminated to particular customers, as such Shwed discloses that
a management variable, i.e. service rules, are disseminated to particular customers, i.e.
computers) (Figure 3/4).

14.   Referring to claim 41, Shwed discloses said service control center comprises an
infrastructure layer operable to perform element management (i.e. disseminate the rules
to the particular nodes) (Figur 4; col. 8, lines 10-15).

15.   Referring to claim 43, Shwed discloses said service control center comprises an
execution layer operable to provision a service and execute service rules (i.e. convert

GUI information into a filter script to be implemented by the filter nodes) (col. 8, lines 10-15).

16.   Referring to claim 44, Shwed discloses said service control center further comprises an imperative scripting engine (i.e. convert the information on the GUI to a filter script) (col. 8, lines 10-15).

17.   Referring to claim 45, Shwed discloses a desktop manager module comprising a proxy application (i.e. system administrator control module 210); and

a service installation module (i.e. packet filter generator 208);

wherein said imperative scripting engine is operable to install a service using said proxy application in cooperation with said service installation module (i.e. the control module 210 utilizes the information in the GUI to generate scripts which are installed and executed on the various network nodes) (col. 5, lines 55-67; col. 8, lines 10-15).

18.   Referring to claim 46, Shwed discloses a services object manager operable to manage software objects (i.e. network rule software objects) corresponding to services (i.e. rules) implemented on said network (col. 8, lines 10-15), said imperative scripting engine being operable to receive object from said services object manager and pass software code corresponding to said objects to a network abstraction layer (i.e. pass information from GUI to script generator) (col. 8, lines 10-15).

19.   Claims 47-54, 56-59 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

20.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

        Claims 43, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Shwed.

21.   Referring to claim 43, Shwed discloses the invention substantively as described

in claim 34. Shwed further discloses a communication services control module (i.e.

system administrator 102 control module 210) (Figure 2); a configuration module (i.e.

GUI) (Figure 3, all); and an event bus operably couple dto modules to communicate

event information to modules (i.e. bust connection various parts of the system

administrator 102) (Figure 2). Shwed does not specifically state having a performance

module, however evaluating rules and determining the performance of a network is well

known in the art (i.e. congestion monitoring, rule evaluation, etc.). By this rationale,

"Official Notice" is taken that both the concept and advantages of providing for a

performance module is well known and expected in the art. It would have been obvious

to one of ordinary skill in the art to modify the teaching of Shwed to include a

performance module in order to allow refinement of the rules/services, in order to

provide a more efficient network and more efficient execution of processing rules,

thereby increasing throughput to the network and reducing overhead processing.

22.   Claim 55 is rejected for similar reasons as stated above.

Response to Arguments

23.   Applicant's arguments are moot since no arguments were presented due to the

introduction of new claims.

Conclusion

24.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

25.   Applicant has failed to seasonably challenge the Examiner's assertions of well

known subject matter in the previous Office action(s) pursuant to the requirements set

forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for

evidence set forth by Applicant in the next response. Accordingly, the claim limitations

the Examiner considered as "well known" in the first Office action, are now established

as admitted prior art of record for the course of the prosecution. See In re Chevenard,

139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA
May 15, 2006

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